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## NEW CHALLENGES FOR OFFICIALS IN PUBLIC ADMINISTRATION

### Abstract

The aim of the paper is to focus on the performance of the profession of a civil servant in the Czech Republic as a person who is able to respond to dynamically changing conditions in the exercise of his/her profession. The execution of the so-called white-collar service is often an unjustly neglected profession, not only in the media and society, but often on the basis of non-orientation in the basic requirements imposed on the performance of this activity. The paper focuses on the view of territorial self-governing units officials who, in addition to their profession, are obliged to educate themselves during their white-collar life, to respond to political and new social situations and to perform, which is always connected with the principle of constitutionality, but mainly to function in cooperation with the law which their activity is based on and without which it could not do so. The authors of the article set themselves the personal goal of presenting the official's performance as a challenging profession, which is often unjustly criticized without anyone realizing the strict link between his/her performance and law. First, the paper will use the description method, which will then change into analysis and deduction.

**Key words:** public servant, public administration, law, state

### 1 INTRODUCTION

Today's modern democratic society looks critically not only on the performance of state administration but also on the performance of public administration, which focuses mainly on citizens and their needs. It is clear from the media that negative information spreads much faster than positive information. Unfortunately, this phenomenon also applies to the performance of civil servants. We are much more often confronted with a corruption case or an affair connected with the performance of a clerical apparatus than with praise reports on the self-sacrificing performance of civil servants, thanks to which clients (citizens) of the

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public administration handled the necessary problem. This phenomenon is mainly associated with the development of modern democratic states, especially in the countries of the former Eastern Bloc.

The gradual democratization of these countries has changed from the initial euphoria from a return to democratic principles throughout society, including public administration, to a negative view of a democracy in which everything is possible. Changes after 1989, which directed states such as the Czech Republic or Slovakia towards the status of candidate and subsequently acceding members of the European Union.

The detailed transformation in the 1990s led to the overall democratization and decentralization of public administration. The clerical apparatus in this area was gradually gaining strength, as did the demands placed on it. This, in turn, led to significant reform steps concerning both education and the performance of this profession.

### *Theoretical backgrounds of the issue of officials*

On January 1, 2003, in the Czech Republic came into effect Act No. 312/2003 Coll., On Officials of Territorial Self-Governing Units and on amendments to certain Acts, regulating employment of officials and of course, requirements for their education. This act constituted a completely new legal regulation of the status of employees of self-governing units since until then the labour relations of these employees were governed by general labour regulations, in particular by Act No. 65/1956 Coll., Labour Code. The need for new legislation arose not only from the newly established independent Czech state, but also from the demands placed by the European Union on newly established modern democratic societies which sought membership in this democratic group of Western Europe. In connection with this situation, there was of course also a room for justified criticism of not only legal regulations of the act on officials, but also for demands, and not always satisfactory professional level of employees of territorial self-governing units performing activities in the area of public administration. The Ministry of the Interior of the Czech Republic talks about the main causes of this situation, namely the subjective selection of employees, their relatively high turnover, incomplete education system and, in some cases, also excessive interventions of elected bodies of territorial self-governing units into individual personnel decisions concerning employees of these units (MVČR, 2005).

The main objective of the approved act on officials was therefore not only to improve the performance of state administration within the delegated powers of the territorial self-governing unit and eventual response to challenges from the European Union, but above all to improve the work of officials themselves. The prerequisite for all of the above mentioned, leading to the functioning of the newly established democratic public administration, was primarily to demand

the professionalisation of officials, since the satisfaction of participants involved in administrative management, linked not only to the performance of public administration, depends on them. One of the ways to improve their activities was to stabilize jobs and strengthen their independence from elected bodies or the overall principle of subsidiarity of local and regional authorities.

An inseparable part of the educational process was also the creation of a quality and professional system of educational institutions for these employees in the area of performance of state administration. For example, Moderní Obec in the article on the education of civil servants states that “the gradual implementation of Act No. 312/2002 Coll. will undoubtedly become a turning point in the existing personnel and educational systems of territorial public administration in the Czech Republic. The implementation is spread over several years and is linked to the next phases of the reform of territorial public administration. Thanks to the accreditation of educational institutions and educational programs, which have a similar course and organization as, for example, the accreditation of higher education institutions, the whole system of educated officials will gradually improve” (Grzywa, 2002). This statement clearly fulfills the above mentioned facts.

### *Definition of the issue of officials*

For the purposes of this text it is necessary to clarify the basic conceptual apparatus with which the paper will normally work. One of the basic theoretical levels is therefore the need to define the concept of official and territorial self-governing unit. The encyclopedia of law states that the territorial self-governing unit is one of the so-called neologisms of the Czech constitution, which is artificially created and constructed similarly to the concept of constitutional order. In general, therefore, a territorial self-governing unit in the Czech Republic can be considered a territorial self-government, which is represented by the basic territorial self-governing units (municipalities) and higher territorial self-governing units (regions). The act on officials then applies only to those employees of territorial self-governing units who fall into the so-called category of an official. It means the employees of the office of the territorial self-governing unit, who participate in the performance of administrative activities and are included in the office of the territorial self-governing unit. As the territorial self-governing unit can be considered the performance of administrative activities assigned to the municipal authority, to the city authority, to the city hall (magistrate) of a statutory city, to the city hall of a territorially divided statutory city, to the city district authority or the city district authority of the territorially divided statutory city, to the regional authority, to the City Hall of the capital city of Prague or to the city district authority of the Capital City of Prague (Act No. 312/2002 Coll., On Officials of Territorial Self-Governing Units).

Vedral clearly defines the issue of the definition of this profession in its analysis of the civil servant profession. 'Employee' is a person who is employed by a municipality. It follows that the law does not apply to persons who have concluded with the municipality any of the agreements on work performed outside employment, i.e. an agreement to perform work or an agreement on work activity (§ 232 et seq. of the Labour Code), even if these persons performed or participated in the performance of administrative activities (Vedral, 2002). The act on officials also does not apply to employees classified in organizational units, employees classified only in its special bodies and employees who perform exclusively so-called service activities or who manage the performance of such activities. Members of elected bodies of territorial self-governing units cannot be considered as officials. The labour relations of these employees are governed by the Labour Code and other labour regulations.

In connection with the above mentioned, the act on officials also lays down the preconditions for the employment of an official. It is a natural person who is a citizen of the Czech Republic or a natural person who is a foreign citizen but who has permanent residence in the Czech Republic, provided that he/she has reached the age of eighteen and has legal capacity for legal acts; has clean criminal record, speaks the official language and fulfils the requirements for the performance of administrative activities laid down by a special regulation. One of the positive benefits to be highlighted is the duration of employment. Under the Czech legislation, the act on officials excludes the possibility (with the exception of two exhaustively defined reasons) to conclude a fixed-term employment relationship with an official, even if the official would explicitly require the conclusion of a fixed-term employment relationship. Beyond this advantage, however, it is possible to find countless demands which do not apply to employees in regular employment governed only by the Labor Code. The legislation mainly emphasizes the duties of an official, namely the obligation to act in the public interest, to act and decide impartially, to comply with constitutional regulations, laws and other legal regulations. The basic duties of an official include not only normal labour relations (valid for a normal non-official employment relationship), but also obligations which apply to the behaviour of the official outside the performance of work (i.e. refrain from conduct which would seriously undermine the credibility of the local authority). Officials are also expressly prohibited from engaging in any other gainful activity without the consent of the local authority with whom the official is in an employment relationship. However, the limitation does not apply to scientific, pedagogical, journalistic, literary or artistic activities, to the activities of an expert or an interpreter performed in accordance with a special regulation for a court or administrative authority, to advisory bodies of the Government of the Czech Republic and to the management of own or inherited assets.

## 2 EDUCATION OF OFFICIALS AND THE DEMANDS PLACED ON THEM

The region or municipality (territorial self-governing unit) provides education of officials through accredited educational institutions, unless it has established an educational unit within its own organizational structure which has been accredited. It draws up a timetable for expanding of the qualifications of an official. It is obliged to draw up a plan no later than one year after the commencement of employment. It shall include education of at least 18 days in the period of the following three years. According to the methodology usually issued by the human resource department, this plan will be elaborated by a human resource officer or a superior of an official (head, director of a department or a specialized department, etc. - all governed by the organizational structure of the office). The plan must, of course, take into account the needs of the authority (thus fulfilling the criterion of efficiency and economy), as well as the interest of the official to increase his/her qualifications in his/her field of competence. The official must approve the training plan and its performance is then checked or modified as agreed. The act stipulates a deadline for evaluating the fulfillment of the plan at least once every three years. The duties of an official include primarily the improvement of qualifications by participating in initial and continuous education and in the preparation and verification of special professional competence. The rule of direct proportion is applied here, the higher status (senior official, head of office, etc.), the higher the demands on education. The above-mentioned education (initial, continuous and senior officials) is not completed by an exam, however, such education is completed by the so-called special professional competence. However, the Act on Officials of Territorial Self-Governing Units imposes compulsory education on officials performing administrative activities. Therefore, continuous training, i.e. the official's participation in expanding updating and specialization training activities (training, seminars, conferences, training cycles, etc.) is aimed at the performance of administrative activities. Here we can include deepening language skills, focusing again on the performance of administrative activities (deepening the terminology of administrative law, etc.) (Act No. 312/2003 Coll.).

The concept of special professional competence (hereinafter referred to as ZOZ, *zvláštní odborná způsobilost*) is an important term not only for officials and duties related to it, but also for the public, who is often unaware of the difficulty and duty of passing this examination. It is a summary of the knowledge and skills which are necessary for the performance of the activities laid down in the implementing legislation, namely Decree No. 512/2002. ZOZ consists of two parts - general and special. The law specifies the content of both these parts. In general, the first one includes knowledge of the fundamentals of public administration, especially the general principles of organization and activities of

public administration, knowledge of the Municipalities Act, the Act on Regions and the Act on the Capital City of Prague, including the Act on Administrative Proceedings. The second, so-called special part, includes the knowledge necessary for carrying out specific administrative activities with regard to the knowledge of the competence of territorial self-government bodies and territorial administrative authorities related to these administrative activities and their practical application (MVČR, 2005).

## **2.1 Institute for the education of officials in public administration**

In connection with the above mentioned, it is clear that the demands placed on the officials, although outlined only marginally, are one of the most demanding parts of this profession. The necessity to carry out this activity entails education and training provided in the Czech Republic by the so-called Institute for Public Administration. Its full name is The Institute for Public Administration Prague, it is a state contributory organization established by the Ministry of the Interior, providing mainly education of officials of territorial self-governing units according to Act No. 312/2002 Coll., as amended. It has a dual role in this activity. The first as a public authority, which methodically manages and coordinates the area of special professional competence as a qualification prerequisite for the performance of state administration in delegated competence, including the verification of this competence by examination. The second, as an educational institution, which offers officials a comprehensive range of accredited educational programs to expand qualifications. The training of officials of territorial self-governments is carried out on the basis of accredited training programs and the objective of training of officials is to successfully pass a special professional competence examination, and the Institute is the only institution in the Czech Republic authorized to provide such examinations. It also provides education to employees and civil servants under Act No. 234/2014 Coll., as amended, and related legislation. It is also active in international activities, it is an active member of international professional groups and implements international projects in the field of education. It is membership in international groupings that is becoming an increasingly important element for the Institute in today's globalized society and brings with it invaluable experience and opportunities to exchange not only experience in public administration, but also the so-called good practice. The Institute is currently a member of the European Network Training Organizations for Local and Regional Authorities (ENTO), the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPACEe), the Network of European Public Administration Schools and Institutes (NEPASI) and regularly participates on the meetings of Directors of Institutes and Schools of Public Administration (DISPA) (Institute for Public Administration, 2016).



## 2.2 Ethics and corruption from the perspective of public administration

One of the government's main priorities, not only in the Czech Republic, is the anti-corruption policy. Since 1999, in the Czech Republic has been in force a government anti-corruption program which has imposed tasks on the members of the government and heads of central administrative bodies whose fulfillment was to prevent the expansion of corruption in society. This fulfillment is continuously evaluated through the Corruption Report in the relevant year.

Transparency International in collaboration with a team of authors in 2005 issued scripts on the project of the same name entitled Corruption and Anti-Corruption Policy in Public Administration, which states that the basic prerequisite for the proper functioning of any democracy are, among other things, free elections, a clear division of responsibilities between executive, legislative and judicial powers, division of roles between government and opposition, and judicial control of the executive power within the administrative judiciary and legislative power within the constitutional judiciary. These basic democratic institutes are also a prerequisite for a successful anti-corruption policy since they prevent undesirable accumulation of power. The media also play an important role in the fight against corruption. However, if they are to act as an anti-corruption 'watchdog', they must operate within a legal framework which allows freedom of expression and free access to information. Of course, civil society is also crucial for the fight against corruption. It is civil society organizations that play an important role not only in the provision of public services which the state is unable to provide, but also in the field of public control of the functioning of the state and its authorities. Therefore, a precondition for a successful anti-corruption policy is the cooperation of the state (its bodies) with associations of citizens and interest associations of legal entities (both business and non-business) in the fight against corruption (Transparency International et al., 2005). The authors and the specialized literature agree that there are three basic pillars of the anti-corruption strategy. These are: identifying manifestations and analyzing the causes of corruption; identifying preventive and repressive instruments of anti-corruption policy; evaluation of the effectiveness of the anti-corruption strategy (Transparency International ČR, 2000; Quah, 2001; Zemanovičová, 2004).

In the light of the above mentioned, it is clear that corruption is also closely related to the concept of ethics in conjunction with the behaviour and manners of officials - as outlined above. The question of ethics is one of the most sensitive and debatable in public administration. Ethical principles, however, can not be understood only by capturing in legal norms, but above all as a part of the human factor transmitted to the exercise of the profession. In connection with this position of performance, however, we can meet with the opinion, even in international organizations (OECD, Council of Europe), that the observance of ethical principles is not a guarantee of

compliance with legislative regulations, especially in a situation where the person does not know the relevant regulations, or does not obey them. Here, the emphasis is on the quality of public administration, which is a prerequisite for competence, due to good knowledge of the legislation with reference to the importance of training, which is the continuous training of officials. It is interesting to mention an example of the interconnection of the clerical profession with ethics and ethical principles related to corruption. The issue of ethical conduct and ethics was also dealt with in the research carried out in the framework of training of officials of territorial self-governing units to acquire professional competence, carried out in 2016. It was attended by one hundred and twenty officials working in public administration. When asked whether the code of ethics was applied in their office, seventy percent answered yes, which is a relatively high percentage. Interesting, however, was one of the questions relating to the relationship of the code of ethics to the conduct of officials and corruption. Three quarters of respondents replied that the code of ethics very well regulates the behaviour and conduct of officials of territorial self-governing units (i.e. their workplace) in order to prevent corruption. On the other hand, there are twenty percent of respondents who do not have any information about it. Ninety-nine percent of respondents correctly answered the question about what is not corruption. Specifically, it was a choice of: receiving a bottle of alcohol, receiving a bouquet, providing cash, and providing counter-services. Respondents were acquainted with the fact that only accepting a bouquet is not a corrupt act.

### **2.3 New challenges for officials - mainly personal level**

The role of public administration employee in continental Europe is usually enshrined in a law, which is specified in internal regulations, which specify the position of the employee (official), his/her rights and duties in more detail. These rules should also cover relationships within an organizational unit or the entire organizational system, including the principles which employees should follow when dealing with citizens and other entities. These principles include, for example, legality, public service, ascertaining the actual state of affairs, and also:

- Fulfillment of tasks performed with an understanding of the interests and needs of citizens; lack of competence should in any case be clarified and the matter referred to the competent authority,
- citizens and other entities should be given the opportunity to consult relevant legislation and internal instructions when requested or when it is necessary for their understanding,
- participants in administrative proceedings should be provided with



information about their rights and obligations. In other cases, information and advice should be given to citizens and other entities on matters of direct interest or matters which directly affect them.

These principles are translated into legislation in modern democratic states and supported by codes of ethics. These are, in particular, procedural law, the code of administrative procedure, the law on administrative judiciary, but also laws which give interested parties the right to free access to information or which introduce an institution of the Ombudsman (Sciskalová, 2014).

From the above mentioned it is more than obvious that the demands placed on employees in public administration often limit not only their labour relations, but they are also reflected into the personal level. Further education of officials of local authorities or civil servants is a very demanding and complex process. These facts are often forgotten and the official is thus wrongly becoming a criticized object of the state because he/she is closest to the citizen. We can generally identify the demands placed on employees in public administration in the following areas:

- Ethical demands, which are set out, inter alia, in the law and recommendations of international institutions. These include, for example, the issue of corruption, corrupt behaviour, ethics and codes of ethics.
- Psychological demands due to the constantly changing legal environment, contact with clients, citizens and the need to reconcile personal and professional life.
- Physical demands, which often originate in a mentally demanding profession - can often lead to burnout.
- Social demands which an official has towards society and vice versa. These demands often include a negative view of the bureaucratic apparatus in general.
- Educational demands which are determined not only by law, but also by individual limits.
- Communication demands, which are determined by the education of individual employees but also by enhancing of their ability to communicate with problematic clients.

According to the authors, the above-mentioned demands are only basic identifying elements which can be further modified as needed for further descriptive examination. In relation to the identified areas can be identified the risks which are essentially a challenge for the officials themselves. Facing these risks and preventing them from occurring is currently the primary objective, apart from the legal service of citizens.

Risks as challenges arising from the performance of the official's profession can be identified in three basic areas, namely:

- **Social risk:** Possible exclusion of employees from society based on strict regulations and exclusion from certain social activities of citizens who are not legally bound by employment.
- **Mental risk:** There is an increased risk of burnout and psychological extinction due to the constant increase in professional demands on employees and the amount of communication with clients.
- **Economic risk:** The disproportion between the amount of obligations and salary in the public sector is often the cause of employees leaving to the private sector despite the passing of the proficiency test.

In addition to the mentioned risks which officials may succumb to in the exercise of their profession, there is also the phenomenon of so-called aggressive client. These are primarily clients (citizens) who are unable to control emotions and officials are often the first to encounter this aggression. Employees in public administration must be prepared for such situations. It is clear from practice that this behaviour is not a novelty, therefore the part of further education of employees is also the basis of working with these clients and learning how to deal with such a situation. Interestingly, many authorities already routinely expect an aggressive or otherwise negative client, for example, the City of York, England, has issued a handbook on how to treat clients (instructions are mandatory). Part of the handbook is also a procedure how to treat a problem or aggressive client. The recommendation for the official is, for example, to maintain peace, smile, use assertiveness, and only in extreme cases is the official allowed to leave the counter (Grzywa 2002)

## CONCLUSION

The aim of the paper was to present the demanding nature of the clerical profession and the current challenges for officials in public administration. Except from the demands clearly defined in Act No. 312/2003 Coll., it is also possible to identify demands which are not exhaustively defined in the Act. These are mainly psychological, social and communication demands.

The official uses these competencies in everyday contact with public administration clients or citizens. Among other things, the official continues to expand his/her qualification. In relation to above mentioned, he/she becomes a so-called „person at risk“. There are risks which can lead from burnout to wrong decisions or leaving the public sector. It is up to the employer (at the highest level of the state, irrelevant of organizational

structure), to take care of its employees (officials) and to prevent these negative phenomena. In today's society, there are countless concepts to support the clerical apparatus and good clerical behaviour, from reconciling personal and professional life to New public management, Total quality management or social responsibility. But the basis for applying the positive elements of these concepts is education and a general overview of executives or elected bodies of the municipality, region or state. So what are the new challenges for officials in public administration? Of course, lifelong learning with an emphasis on the personal level and avoiding the risk factors identified in the paper. It is not just about new challenges, basically, it is about challenges which have been part of this profession since the very beginning.

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